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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

M-07 957

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UNITED STATES OF AMERICA,

-against-

DAVID JOHNSON,

Defendant.

COMPLAINT AND AFFIDAVIT
IN SUPPORT OF APPLICATION
FOR ARREST WARRANT

(T. 18, U.S.C.
§ 922(g)(1))

- - - - - X

EASTERN DISTRICT OF NEW YORK, SS:

ISMAEL HERNANDEZ, being duly sworn, deposes and says that he is a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), duly appointed according to law and acting as such.

Upon information and belief, on or about July 6, 2007, within the Eastern District of New York, the defendant DAVID JOHNSON, having been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, did knowingly and intentionally possess in and affecting commerce a firearm, to wit, a 12 gauge Uplander shotgun with a barrel length less than 18 inches, commonly referred to as "sawed-off" and ammunition, in violation of Title 18, United States Code, Section 922(g)(1).

(Title 18, United States Code, Section 922(g)(1))

The source of your deponent's information and the grounds for his belief are as follows¹:

1. I have been a Special Agent of the ATF for approximately six years, and I am currently assigned to a firearms and violent crimes group with the ATF New York Field Office. The factual information supplied in this affidavit is based in part on information from reviews of records of the New York Police Department ("NYPD"), conversations with police officers and other official records of government agencies.

2. On July 6, 2007, New York City Police Officers went to 6 Avenue B, second floor, Staten Island, New York in response to a 911 call reporting that a man living at the address had menaced his neighbor with a shotgun. When the officers arrived, they spoke with the resident of the first floor apartment who informed them that the upstairs neighbor had threatened her with a shotgun.

3. The officers knocked on the door of the second floor. The defendant DAVID JOHNSON answered the door. The officer asked the defendant DAVID JOHNSON to step outside so they could talk. The defendant DAVID JOHNSON came out of the apartment and the first floor resident identified the defendant

¹ Because this affidavit is being submitted for the limited purpose of establishing probable cause to arrest DAVID JOHNSON, as described in greater detail below, I have not set forth every fact learned during the course of this investigation.

DAVID JOHNSON as the person who menaced her with a shotgun. The defendant was placed under arrest.

4. The officers then spoke with Arlene Quick, the defendant's girlfriend who also resides at 6 Avenue B, second floor, Staten Island, New York. She gave the officers consent to look inside the apartment to see if there were any weapons inside the location. The officers recovered a 12 gauge Uplander shotgun with a barrel length less than 18 inches on top of a kitchen cabinet.

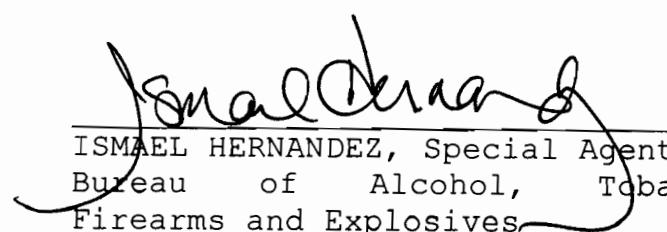
5. After being advised of his Miranda rights, the defendant DAVID JOHNSON stated to an officer with the NYPD Firearms Enhancement Unit, in sum and substance, "I live at 6 Avenue B, Staten Island, New York apartment #2. On Monday night about 4:30 a.m. there was a party at the neighbor's house downstairs. The music was very loud so I went downstairs and ask the neighbor to turn it down. An unknown black male answered the door and reached for a black garbage bag on the washing machine outside the door. I then grabbed the bag and which he went back into apartment #1. I took the bag upstairs to my apartment #2, opened it and saw it was a gun. I then put it on top of the cabinet in the kitchen."

6. A criminal history check of the defendant DAVID JOHNSON revealed that he was convicted on July 21, 2003, in New

York County, New York, for Attempted Assault in the Second Degree, which is a felony punishable by a term of imprisonment of more than one year, and was sentenced to a term of imprisonment of 18 months to 3 years.

7. As an ATF Interstate Nexus Expert, I know that the above-mentioned 12 gauge Uplander shotgun was manufactured outside the state of New York.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for defendant DAVID JOHNSON so that he may be dealt with according to law.


ISMAEL HERNANDEZ, Special Agent
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Sworn to before me this
30th day of August 2007

UNIT:
EAST

JUDGE
YORK